



23 AUG 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Benoit Castel
Young & Thompson
745 South 23rd Street
Arlington, VA 22202

In re Application of
VAN EELEN et al.
Application No.: 09/581,912
PCT No.: PCT/NL98/00721
Int. Filing Date: 18 December 1998
Priority Date: 18 December 1997
Attorney's Docket No.: BO 42358
For: INDUSTRIAL PRODUCTION OF
MEAT OUTSIDE THE BODY

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DECISION ON PETITION

This decision is in response to "Petition to Revive under 37 CFR 1.137(b)" and "Petition under 37 CFR 1.47(a)" filed 01 July 2002 to accept the application without the signatures of inventors, Willem Jan Van Kooten and Christine Lindsay Mummery. The required petition fee of \$640.00 and \$130.00 has been charged to Deposit Account no. 25-0120.

BACKGROUND

On 18 December 1999, applicant filed international application No. PCT/NL98/00721, which claimed a priority date of 18 December 1997. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 June 1999. A DEMAND for international preliminary examination was filed prior to the expiration of 19 months from the priority date. Accordingly, the thirty-month period for submitting the basic national fee for entering the national stage in the United States of America expired at midnight on 19 June 2000 (18 June was a Sunday).

On 19 June 2000, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the basic national fee; the international application; a first preliminary amendment; and an international preliminary examination report.

On 14 July 2000, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) and Notification of a Defective Oath or Declaration (Form PCT/DO/EO/917) indicating that the declaration was not executed in accordance with 37 CFR 1.66 or 37 CFR 1.68. The notification set a one-month time limit to respond.

On 12 January 2001, applicant filed an declaration and power of attorney executed by two of the four inventors; a small entity statement; and a five-month extension of time.

On 19 July 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Defective Response (Form PCT/DO/EO/916) and a Notification of a Defective Oath or Declaration (Form PCT/DO/EO/917) indicating that the declaration was not executed in accordance with 37 CFR 1.66 or 1.68. Specifically, "the declaration has not been executed by inventors #2 and #4."

On 20 August 2001, applicant filed a "Request for Official Filing Receipt." In a communication mailed 14 December 2001, the request for Official Filing Receipt was refused and the application was abandoned for failure to provide a proper response to the Notification of Defective Response (Form PCT/DO/EO/916) and Notification of a Defective Oath or Declaration (Form PCT/DO/EO/917) mailed 19 July 2001.

On 01 July 2002, applicant filed the present petitions under 37 CFR 1.137(b) and 37 CFR 1.47(a).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional delay must be accompanied by: (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c). Applicants have satisfied Items (2)-(4).

In order to comply with the proper response requirement of item (1) above for revival under 37 CFR 1.137(b), applicant submitted the present Petition Under 37 CFR 1.47(a). Under the present circumstances, in order for the response requirement, item (1) above, to be satisfied, the petition to accept the application without the signature of joint-inventors Willem Jan Van Kooten and Christine Lindsay Mummery must be grantable.

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Applicant has provided items (1),(3), and (4) under 37 CFR 1.47(a).

A review of the present petition and the accompanying papers reveal that applicant has satisfied item (2), in that the applicant has shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Willem Jan Van Kooten and Christine Lindsay Mummery. Additionally, Patricia Ringeling declares that Willem Jan Van Kooten and Christine Lindsay Mummery have refused to sign the application papers.

Accordingly, the petition to revive under 37 CFR 1.137(b) is granted and it is appropriate to accord the national stage application status under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.137(b) is GRANTED.


The petition under 37 CFR 1.47(a) is GRANTED.

The application will be given an international filing date of 18 December 1998 under 35 U.S.C. 363, and a date of **12 January 2001** under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.


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Int. Filing Date: 18 December 1998
Priority Date: 18 December 1997
Attorney's Docket No.: BO 42358
For: INDUSTRIAL PRODUCTION OF
MEAT OUTSIDE THE BODY

Dear Ms. Mummery:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.497.

A handwritten signature in black ink, appearing to read "Boris Milef".

 Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

A handwritten signature in black ink, appearing to read "Anthony Smith".

Anthony Smith
Attorney-Advisor
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Int. Filing Date: 18 December 1998
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For: INDUSTRIAL PRODUCTION OF
MEAT OUTSIDE THE BODY

Dear Mr. Van Kooten:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.497.

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